

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-61754-CV-MIDDLEBROOKS

IN ADMIRALTY

SWEET CAROLINE MARINE, LTD,

Plaintiff,

v.

M/Y SWEET CAROLINE, and
AVYC, LLC, *in personam*.

Defendant(s).

ORDER APPOINTING SUBSTITUTE CUSTODIAN

THIS CAUSE comes before the Court upon Plaintiff's Motion for Appointment of Substitute Custodian (DE 7), filed on September 13, 2023. The Court has reviewed the Motion, record, and is fully advised.

On September 11, 2023, Plaintiff initiated the above-styled action against the M/Y SWEET CAROLINE, a 2008 127' Jamaica flagged IAG motor yacht, documented by the Maritime Mobile Service Identity (MMSI) 339952000, along with her engines, machinery, tackle, apparel, boats, furniture, equipment, rigging, freights, and all other necessary appurtenances ("Vessel"). On September 13, 2023, Plaintiff filed a Motion for the issuance of a Warrant of Arrest against the Vessel, directing the U.S. Marshall to take custody of the vessel and retain custody pending further order of this Court. Also on September 13, 2023, Plaintiff filed the instant motion indicating that proposed substitute custodian G. Robert Toney and Associates Inc. is willing to accept custody of the Vessel, that it has adequate facilities to secure the Vessel, and that it has executed the necessary

consent and indemnification agreement (DE 8) releasing the U.S. Marshall of any liability pursuant to Local Admiralty Rule E(10)(c)(ii).

Accordingly, it is hereby

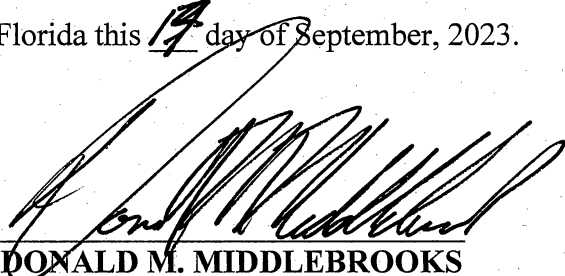
ORDERED AND ADJUGED as follows:

1. The Motion for Appointment of Substitute Custodian (DE 7) is GRANTED.
2. G. Robert Toney and Associates Inc. is hereby appointed the Substitute Custodian of the Vessel and shall retain the Vessel in its custody for possession and safekeeping until further order of this Court.
3. The United States Marshal for the Southern District of Florida is hereby authorized and directed (upon his or her seizure of the Vessel) to surrender possession of the Vessel to the Substitute Custodian named herein. Upon surrender, the Marshall shall be discharged from his or her duties and responsibilities for the safekeeping of the Vessel and shall be held harmless from any and all claims arising whatsoever out of the Substitute Custodian's possession and safekeeping.
4. Any appurtenances or parts of the Vessel that have been removed shall be taken into custody by the U.S. Marshal, including any parts in any storage container, and said appurtenances or parts shall be turned over to the Substitute Custodian.
5. Upon transfer of custody of the Vessel to the Substitute Custodian by the U.S. Marshal, the Substitute Custodian shall cause the Vessel to remain in its sole care, custody, and control.
6. All reasonable costs, fees, and/or expenditures for the towing, safekeeping and maintaining of the Vessel by the United States of America, and/or the Substitute Custodian while she is in custodia legis; or for such costs, fees, and/or expenditures

incurred by the United States of America, and/or the Substitute Custodian, or by any party advancing funds to the Substitute Custodian, for such costs, fees, and/or expenditures, shall be administrative expenses in this action and a first charge on Vessel herein, to be paid prior to the release of the Vessel or the distribution of proceeds of its sale.

7. The Court reserves the right to evaluate the reasonableness of fees incurred by the Substitute Custodian and to require evidentiary support justifying any ultimate fee request. Nothing in this Order should be construed as a guarantee of a final award of custodia legis fees to the Substitute Custodian.
8. The Substitute Custodian shall acknowledge receipt for Defendant Vessel, and the U.S. Marshal shall attest to the date and time of release on a certified copy thereof.
9. During custodia legis the Substitute Custodian shall not permit repairs or changes to be made to the Vessel, except for routine maintenance required for the Vessel's safekeeping, or in emergency situations, without an Order of this Court.

SIGNED in Chambers at West Palm Beach, Florida this 14 day of September, 2023.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Cc: Counsel of Record